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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,868	08/18/2003	Vinh Thanh Vu	125-001US	3334
22897	7590	11/14/2005	EXAMINER	
<b>DEMONT &amp; BREYER, LLC</b> SUITE 250 100 COMMONS WAY HOLMDEL, NJ 07733				SAN MARTIN, EDGARDO
		ART UNIT		PAPER NUMBER
				2837

DATE MAILED: 11/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/642,868	VU, VINH THANH	
	<b>Examiner</b>	<b>Art Unit</b>	
	Edgardo San Martin	2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 August 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-32 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 15 – 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee (US 5,905,804).

Lee teaches an article comprising a bottom plate (Fig.1, Item 10), wherein the bottom plate comprises three or more spaced wells (Fig.1, Item 11) in a first major surface thereof; and a plurality of vibration-control elements (Fig.1, Item 30), wherein the vibration-control elements are received by at least some of the wells, one vibration-control element to a well (Fig.3); further comprising a top plate (Fig.1, Item 20), wherein the top plate is disposed above the bottom plate and wherein the vibration-control elements are sandwiched between the bottom plate and the top plate(Fig.3); and wherein the vibration-control elements are balls (Figs.1 and 3).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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2. Claims 1 – 14 and 18 – 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (US 5,905,804).

Lee teaches the limitations discussed in a previous rejection, but fail to disclose the limitations described in the abovementioned claims.

Regarding claims 1, 23 and 24, the Examiner considers that it would have been an obvious matter of design choice to size the wells between  $\frac{1}{2}$  inch and  $1\frac{1}{4}$  inches because these are just design dimensions that would not affect the functionality of the article to attenuate vibrations. In addition, it has been held that a change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

With respect to claims 2, 11, 23 and 26, the Examiner considers that it would have been an obvious matter of design choice to employ a plurality of spaced wells, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

With respect to claims 3, 5, 9, 10, 12, 27, 28 and 30 – 32, the Examiner considers that Lee teaches the limitations described in the claims (Figs. 1 and 3; Col.1, Line 59 Col.2, Line 13 and Col.3, Lines 12 – 16).

With respect to claims 7, 8, 13, 14, 18 – 22, 25 and 29, the Examiner considers that it would have been an obvious matter of design choice to employ resilient balls as the Lee balls because the resilient characteristic would considerable increase the vibration damping performance of the article, as it is well known in the art of acoustics; furthermore, it has been held to be within the general skill of a worker in the art to select

a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

With respect to claims 4 and 6, the Examiner considers that it would have been an obvious matter of design choice to employ a skirt wherein the skirt depends from a marginal region of the top plate, and further wherein the skirt extends toward the bottom plate because the applicant has not disclosed that the skirt solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with or without the skirt.

***Conclusion***

3. The attached hereto PTO Form 892 lists prior art made of record that the Examiner considered it pertinent to applicant's disclosure.

***Contact Information***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edgardo San Martin whose telephone number is (571) 272-2074. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (571) 272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Edgardo San Martín  
Primary Examiner  
Art Unit 2837  
Class 181  
November 9, 2005